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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,529	08/01/2003	Chee H. Chew	50037.101US01	2655
27488	7590	10/18/2006		EXAMINER
MERCHANT & GOULD (MICROSOFT)				SEYE, ABDOU K
P.O. BOX 2903				
MINNEAPOLIS, MN 55402-0903			ART UNIT	PAPER NUMBER
				2194

DATE MAILED: 10/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/632,529	CHEW ET AL.
	Examiner	Art Unit
	Abdou Karim Seye	2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 01 August 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-24 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 01 August 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date 10/18/2004.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application
 6) Other: _____.

DETAILED ACTION

1. This is the initial office action based on the application filed on August 01, 2003. Claims 1-24 are currently pending and have been considered below.

Claim Objections

2. Claim 16 is objected to because of the following informalities:

Claim 16 contains this expression " A mobile device of claim 1 " that the examiner thinks should be dependent on claim 10 instead of claim 1. Thus, the examiner considers this character " 1 " within the above expression as a typographical error from the applicant.

A correction is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 10-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed to a signal directly or indirectly, by claiming a media and the specification recites evidence where the computer storage media is defined as a "wave" (such as a carrier wave).

The specification in this instance (see page 4, lines 2-27) provides intrinsic evidence in the form of examples of items considered to fall within the broadest

reasonable interpretation of computer-readable medium. These examples include computer storage media and communication media. While the computer storage media would establish a statutory category of a machine or manufacture, the communication media include forms of energy (e.g., data signals and carrier waves) and media (e.g., a wire) which are not functionally or structurally interconnected with the instructions in such a manner as to enable the instructions to act as a computer component and realize any functionality they may possess. Thus, the claims are directed to a form of energy that, at present, the office consider to be non-statutory subject matter.

Appropriate change is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that forms the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by **Brosnan et al. (US 6682423)**.

Claims 1, 10 and 17: Brosnan discloses a method, system and software program for transmitting data related to a game application between mobile devices, the method comprising:

- a. Starting a gaming session between mobile devices (abstract; fig. 5, col. 21, lines 1-5; fig. 1A);
- b. Determine a first transport protocol corresponds to an optimal transport protocol for transmitting data (abstract; fig. 5, col. 21, lines 14-20; fig. 1A);
- c. Switching to a second transport (fig. 5, col. 22, lines 50-58; fig. 1A);
- d. Transmitting data in the first transport protocol (fig. 5, col. 22, lines 50-58; fig. 1A); and
- e. Transmitting data in the second transport protocol (fig. 5, col. 22, lines 50-58; fig. 1A).

Claims 2 and 11: Brosnan discloses a method, system and software program for transmitting data as in claims 1, 10 and 17 above and further discloses that the step of initiating the gaming session includes:

- a. Selecting an initial transport protocol from the transport protocols available on a first mobile device (abstract; fig. 5 col. 21, lines 14-20);
- b. Transmitting address information corresponding to the first mobile device (fig. 5, col. 22, lines 11-28);
- c. Transmitting game information corresponding to a first game application (fig. 5, col. 22, lines 38 49); and
- d. Receiving an acknowledgment of data sent (fig. 5, col. 22, lines 11-38).

In order for two nodes to communicate using TCP/IP they must first establish a connection by exchanging messages in what is known a handshake (acknowledgement), therefore this step is inherent.

Claim 3:Brosnan discloses a method, system and software program for transmitting data as in claims 2 and 11 above and further discloses that the address information includes an IP address identifier (fig. 5, col. 22, lines 20-28).

Claims 4,12 and 20:Brosnan discloses a method, system and software program for transmitting data as in claims 1, 10 and 17 above and further discloses that the selected/optimal transport protocol is determined according to immediate availability, transmission rate (fig. 1, col.16, lines 5-45); the non-network transport protocols are configured to be immediately available and to optimally transport data from one node to another.

Claims 5, 13 and 21:Brosnan discloses a method, system and software program for transmitting data as in claims 1, 10 and 17 above and further discloses that a socket-based connection is established between devices within the TCP/IP protocol (fig. 5, col. 22, lines 11-28). Sockets are sort of like PBX phone systems, where the IP address is the phone number, and the port is the extension therefore every paired (connected) socket has a source IP/port and a destination IP/port. When you want to establish communications between the ports and devices associated with each end of the transmission, first you have to request a socket from the kernel, therefore this step is inherent.

Claims 6, 14 and 22: Brosnan discloses a method for transmitting data as in claims 1, 10 and 17 above and further discloses a packet-based connection is established between devices (fig. 1, col. 11, lines 5-10).

Claims 7, 15 and 23: Brosnan discloses a method, system and software program for transmitting data as in claims 1, 10 and 17 above and further discloses that the gaming session is in progress when additional data related to the game application is to be transmitted between devices such as the progressive game service protocol (fig. 1, col. 8 lines 1-22).

Claims 8 and 16: Brosnan discloses a method, system and software program for transmitting data as in claims 1, 10 and 17 above and further discloses the step of receiving additional data from the second mobile device (fig. 5, col. 21, lines 15-21).

Claim 9: Brosnan discloses a method, system and software program for transmitting data as in claims 8 and 16 above and further discloses the steps of:

- a. Selecting of a transport protocol to route the data (fig. 5 col. 21, lines 18-29);
- b. Notifying gaming machine functions and services (game subsystem) (fig. 5, col. 21, lines 30-41);
- c. Notifying the game controller/application on the gaming machine (fig. 5, col. 21, lines 30-67); and
- d. Downloading game information and loading it to the gaming machine for game play (fig. 5, col. 22, lines 38-58).

Claim 18: Brosnan discloses a method, system and software program for transmitting data as in claims 1, 10 and 17 above and further discloses that the address information includes an IP address and gaming information and (fig. 5, col. 22, lines 20-28; col. 21, lines 60-65).

Claim 19: Brosnan discloses a method, system and software program for transmitting data as in claims 1, 10 and 17 above and further discloses that the address information includes an IP address identifier (fig. 5, col. 22, lines 20-28).

Claim 24: Brosnan discloses a method, system and software program for transmitting data as in claims 1, 10 and 17 above and further discloses that the step of receiving additional data from the second communication protocol comprises of:

- a. Selecting of a transport protocol to route the data (fig. 5 col. 21, lines 18-29);
- b. Notifying gaming machine functions and services (game subsystem) (fig. 5, col. 21, lines 30-41);
- c. Notifying the game controller/application on the gaming machine (fig. 5, col. 21, lines 30-67); and
- d. Downloading game information and loading it to the gaming machine for game play (fig. 5, col. 22, lines 38-58).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

Sharma et al. (US5537417) discloses kernel socket structure for concurrent multiple protocol access.

Chheda (20030231586) discloses a system and method for maximizing capacity in telecommunications system.

Engstrom et al. (US 6463078) discloses a method for switching protocols transparently in multi-user application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. Abdou Seye whose telephone number is (571) 270-1062. The examiner can normally be reached Monday through Friday from 7:30 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, contact the examiner's supervisor, William Thomson at (571) 272-3718. The fax phone number for formal or official faxes to Technology Center 3600 is (571) 273-8300. Draft or informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (571) 273-6722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-3600.



WILLIAM THOMSON
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AKS
Sept 25, 2006

William Thomson
Supervisory Patent Examiner